

Reply to Office Action dated May 15, 2007

**REMARKS**

Claims 1-4, 8-11, 15-19, 22-24, 29-31 and 34 are pending in this application. By this Amendment, claims 1, 8, 10, 15, 17 and 22 are amended. Various amendments are made for clarity and are unrelated to issues of patentability.

The Office Action rejects claims 1-4, 7-11, 14-19, 21-24, 26-29, 32-33 and 35 under 35 U.S.C. §103(a) over Derryberry in view of U.S. Patent 6,628,956 to Bark et al. (hereafter Bark). The Office Action also rejects claims 30, 31 and 34 under 35 U.S.C. §103(a) over Derryberry, Bark and further in view of Applicant's Admitted Prior Art (hereafter AAPA). The rejections are respectfully traversed with respect to the pending claims.

Independent claim 1 recites increasing the transmission power of the first station to an increased second transmission power if the first packet data transmission is not successfully received by the second station. Independent claim 1 also recites that the increased second transmission power is calculated based on the first transmission power used by the first station in the first packet data transmission to the second station, a controlled amount of transmission power of the first station as perceived by the second station during a previous packet data transmission, a changed amount of power of the second station received at the first station during a previous packet data transmission, and a channel compensating value received from the second station corresponding to a number of allocated channels as determined by the second station.

The applied references do not teach or suggest at least these features of independent claim 1. More specifically, the Office Action states that Derryberry does not disclose that the

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increased second transmission power is calculated based on a first transmission power used by a first station to a second station, a controlled amount of the transmission power, a changed amount of power received at the first station and a channel compensating value. The Office Action then relies on Bark as disclosing the missing features. However, Bark does not teach or suggest the missing features of independent claim 1.

More specifically, the Office Action (on page 3) states that Bark's col. 8, lines 41-53 relates to the claimed controlling amount of transmission power. However, applicant respectfully submits that the cited section does not teach or suggest the claimed controlled amount of transmission power of a first station as perceived by a second station during a previous data transmission. Rather, the cited section relates to a difference between a transmission power of a pilot signal as transmitted from a base station and a received power of the pilot signal. This does not teach or suggest a controlled amount of transmission power of the first station. Furthermore, the cited section does not teach or suggest a controlled amount of transmission power of the first station during a previous data transmission. Bark's downlink pilot signal does not correspond to the claimed previous packet data transmission as would be known by one skilled in the art.

The Office Action also cites Bark's col. 8, lines 39-44 as teaching the claimed changed amount of power received at the first station. However, the cited section does not teach or suggest a changed amount of power of the second station received at the first station during a previous packet data transmission. Rather, the cited section merely relates to a difference of an actual transmission of a power signal and the received power signal. This does not teach or

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suggest a changed amount of power of the second station during a previous packet data transmission as recited in independent claim 1.

Furthermore, the Office Action cites Bark's col. 8, lines 50-55 as corresponding to the claimed channel compensating value of the second station. However, the cited section does not teach or suggest a channel compensating value received from the second station corresponding to a number of allocated channels as determined by the second station. Rather, the cited section merely relates to a power offset that is determined by the mobile station controller 80. Bark further discloses that the power offset may be a function of the measured uplink interference in a cell. This does not teach or suggest a channel compensating value received from the second station. This also does not teach or suggest a channel compensating value (received from the second station) corresponding to a number of allocated channels as determined by the second station.

For at least the reasons set forth above, Bark does not teach or suggest the features of independent claim 1 missing from Derryberry. Additionally, Bark relates to a method of determining a mobile's transmit power. There is no suggestion to incorporate Bark's disclosure with Derryberry so as to relate to calculating an increased second transmission power if the first packet data transmission is not successfully received by the second station. Applicant respectfully submits that Bark may not be easily combined with Derryberry as alleged in the Office Action. Thus, independent claim 1 defines patentable subject matter.

Independent claim 10 recites increasing the transmission power of the first station to an increased second transmission power if the first packet data transmission is not successfully

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received by the second station. Independent claim 10 also recites that the second transmission power is calculated based on the first transmission power used by the first station, a controlled amount of transmission power of the first station as received by the second station during a previous packet data transmission, a changed amount of power of the second station as received by the first station during a previous packet data transmission, and a channel compensating value received from the second station.

For at least similar reasons as set forth above, Derryberry and Bark do not teach or suggest at least these features of independent claim 10. Thus, independent claim 10 defines patentable subject matter.

Independent claim 17 recites a mobile terminal configured to transmit packet data to a base station at a first transmission power and to increase the transmission power to a second transmission power when the packet data is not successfully received by another entity. Independent claim 17 also recites that the second transmission power is calculated by summing a previous transmission power of the mobile terminal, a controlled amount of transmission power of the mobile terminal as determined by the base station during a previous packet data transmission, a changed amount of power of the base station as received at the mobile terminal during a previous packet data transmission, and a channel compensating value received from the base station and being based on a number of allocated channels.

For at least similar reasons as set forth above, Derryberry and Bark do not teach or suggest at least these features of independent claim 17. Thus, independent claim 17 defines patentable subject matter.

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Independent claim 22 recites means for increasing the transmission power of the packet data transmission to an increased transmission power if the first packet data transmission is not successfully received by a second station. Independent claim 22 also recites that the means for increasing calculates the increased transmission power based on a transmission power used by the mobile communication terminal in a previous transmission to the second station, a controlled amount of transmission power of the mobile communication terminal as received by the second station during a previous packet data transmission, a changed amount of power of the second station as received at the mobile communication terminal during a previous packet data transmission, and a channel compensating value received from the second station.

For at least similar reasons as set forth above, Derryberry and Bark do not teach or suggest at least these features of independent claim 22. Thus, independent claim 22 defines patentable subject matter.

Accordingly, each of independent claims 1, 10 and 22 defines patentable subject matter. Each of the dependent claims depends from one of the independent claims and therefore defines patentable subject matter at least for this reason. In addition, the dependent claims recite features that further and independently distinguish over the applied references.

### **CONCLUSION**

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Favorable consideration and prompt allowance of claims 1-4, 8-11, 15-19, 22-24, 29-31 and 34 are earnestly solicited. If the Examiner believes that any additional changes would

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place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney at the telephone number listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,  
KED & ASSOCIATES, LLP

A handwritten signature in black ink, appearing to read "David C. Oren", is written over the printed name.

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**Date: August 13, 2007**

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